

Committee Opinion
June 16, 1987

LEGAL ETHICS OPINION 934

LAW FIRM – DISBARRED ATTORNEY.

An attorney has committed a felony and his license to practice will be either suspended or revoked.

It is improper for another attorney, given the above situation, to pay a lump sum to the disbarred attorney for developing the practice and then to take the practice over. [DR:4-101; EC:4-6]

It is not improper for another attorney to purchase the equipment and lease of the disbarred attorney. It is improper for another attorney to take over the payment of the disbarred attorney's yellow page advertisement. [DR:2-101] It is not improper for an attorney taking over for a disbarred attorney to pay the disbarred attorney for accounts receivable on matters totally completed prior to disbarment. It is improper for an attorney taking over for the disbarred attorney to divide a contingency fee with the disbarred attorney based on the portion of work performed by the disbarred attorney prior to revocation of his license. [LE Op. 809]

It is proper for an attorney taking over the practice of a disbarred attorney to advise clients of the disbarred attorney of his intention to take over his practice, as long as the clients are given a choice of remaining with the attorney taking over the practice or of hiring another attorney of their choice.

It is improper for a disbarred attorney to be employed as a paralegal on a set salary in the office. [DR:3-101]

It is improper for the attorney taking over to retain the disbarred attorney's present phone number as advertised and to answer the phone as “law offices.” [Canon 2]

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Editor’s Note. – To the extent that L E Op. No. 934 is inconsistent with L E Op. No. 1218, it is overruled since L E Op. No. 1218 provides that compensation to a suspended or disbarred attorney for work performed prior to suspension or disbarment is not improper provided that such payment would not permit the suspended or disbarred lawyer to profit from his own wrongdoing.

L E Op. No. 1218, dated May 8, 1989, provides that to the extent that the opinion overrules L E Op. No. 934 that opinion is so overruled.